

# **Exhibit D**

## **Excerpts of Transcript of Deposition of Lee Reiners (March 28, 2024)**



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# Transcript of Lee Reiners

**Date:** March 28, 2024

**Case:** Karnas, et al. -v- Cuban, et al.

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1 IN THE UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF FLORIDA

3 MIAMI DIVISION

4 -----x

5 DOMINIK KARNAS, et al., :

6 Plaintiffs, : Case No.

7 v. : 1:22-cv-22538-ALTMAN/REID

8 MARK CUBAN, et al., :

9 Defendants. :

10 -----x

11  
12  
13 Videotaped Deposition of

14 LEE REINERS

15 Conducted Virtually

16 Thursday, March 28, 2024

17 10:05 a.m. EST

18  
19  
20  
21  
22  
23 Job No.: 530570

24 Pages: 1 - 136

25 Reported by: Nancy C. Bendish, CCR, RMR, CRR

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1 A P P E A R A N C E S:

2 (All participated remotely via  
3 Zoom Videoconference)

4  
5 ON BEHALF OF PLAINTIFFS  
6 and THE WITNESS, LEE REINERS:

7 THE MOSKOWITZ LAW FIRM, PLLC  
8 BY: JOSEPH M. KAYE, ESQ.  
9 JOHN RODSTROM, ESQ.  
10 2 Alhambra Plaza, Suite 601  
11 Coral Gables, Florida 33134  
12 305.740.1423

13 BOIES SCHILLER & FLEXNER, LLP  
14 BY: STEPHEN N. ZACK, ESQ.  
15 TYLER ULRICH, ESQ.  
16 BENJAMIN SOLOMON-SCHWARTZ, ESQ.  
17 100 Southeast 2nd Street  
18 Suite 2800 - Miami Tower  
19 Miami, Florida 33131  
20 305.539.8400

21 ON BEHALF OF DEFENDANTS:

22 BROWN RUDNICK, LLP  
23 BY: DANIEL L. SACHS, ESQ.  
24 STEPHEN A. BEST, ESQ.  
25 RACHEL O. WOLKINSON, ESQ.  
JONATHAN WHITE, ESQ.  
CAROLINE HENSCHER, ESQ.  
VANESSA TORO-PLAZA, ESQ.  
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202.536.1700

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1 A P P E A R A N C E S (Cont'd):

2 (All participated remotely via  
3 Zoom Videoconference)

4  
5 ON BEHALF OF DEFENDANTS:

6 FOWLER WHITE BURNETT, P.A.  
7 BY: ALEXANDRA TIFFORD, ESQ.  
CHRISTOPHER KNIGHT, ESQ.  
8 1395 Brickell Avenue  
14th Floor  
9 Miami, Florida 33131  
305.789.9200  
10

11  
12 ALSO PRESENT:

13  
14 TIMOTHY McKENNA, NERA Economic Consulting  
15 RACHEL MARTIN, Boise Schiller  
16 SUE PYBAS, Planet Depos Technician  
17 JOSHUA TUBBS, Planet Depos Videographer  
18  
19  
20  
21  
22  
23  
24  
25

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1	Securities cease and desist order against	10:14:44
2	Voyager, a number of other publically available	10:14:49
3	documents, and I had two prep sessions with my	10:14:50
4	counsel.	10:14:54
5	Q. Okay. Roughly when were you	10:14:55
6	retained in this matter?	10:14:57
7	A. I was asked to write this report	10:15:03
8	sometime at the end of February, I believe.	10:15:08
9	Q. And let the record reflect the	10:15:15
10	report is dated on the front page March 15th,	10:15:19
11	2024.	10:15:26
12	So, the things that you mentioned	10:15:27
13	as doing to prepare this report, you did that	10:15:29
14	between the end of February and March 15th; is	10:15:32
15	that right?	10:15:37
16	A. Correct.	10:15:38
17	Q. And did you review any of the	10:15:39
18	documents that were produced by either party in	10:15:41
19	this matter?	10:15:44
20	A. Can you be more specific?	10:15:49
21	Q. You mentioned reviewing two	10:15:50
22	complaints, the motion to dismiss, the cease and	10:15:53
23	desist order and other public documents.	10:16:01
24	I'll represent to you that parties	10:16:03
25	in this matter have made productions of	10:16:05

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1	confidential documents pursuant to discovery in	10:16:07
2	this matter. Did you review any of those	10:16:11
3	documents that were produced by any of the	10:16:13
4	parties?	10:16:15
5	A. No.	10:16:16
6	MR. ZACK: I object to the form of	10:16:17
7	the question.	10:16:18
8	A. No.	10:16:22
9	Q. Did you decide what documents you	10:16:23
10	wanted to review before preparing your report?	10:16:27
11	A. Yes.	10:16:31
12	Q. And how did you go about making	10:16:32
13	that decision?	10:16:34
14	A. I looked at the documents that I	10:16:37
15	thought were most informative as to the	10:16:40
16	substance of EPAs and VGX, and how they're	10:16:44
17	offered, sold, traded.	10:16:51
18	Q. And are there any documents that	10:16:54
19	you didn't review that you think are necessary	10:16:55
20	in order to support your report?	10:16:59
21	MR. ZACK: Object to the form.	10:17:01
22	A. No.	10:17:04
23	Q. So is it fair to say you believe	10:17:05
24	you've reviewed adequate documents in order to	10:17:07
25	support the opinion that you've written here?	10:17:11

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1	Litecoin.	10:30:53
2	Q. But you sold them at some point?	10:30:54
3	A. Yes.	10:30:57
4	Q. And how did you go about buying	10:31:00
5	those cryptocurrencies?	10:31:04
6	A. The first time I bought	10:31:05
7	cryptocurrency was at a cryptocurrency ATM.	10:31:07
8	Subsequent purchases were done via the Coinbase	10:31:15
9	and Gemini exchanges.	10:31:21
10	Q. Okay. Did you study	10:31:24
11	cryptocurrencies as part of any degree that you	10:31:28
12	hold?	10:31:31
13	A. No.	10:31:35
14	Q. Do you have a degree in anything	10:31:41
15	relating to the federal securities laws?	10:31:44
16	A. No.	10:31:49
17	MR. KAYE: Form.	10:31:53
18	Q. Do you teach any courses on	10:31:57
19	cryptocurrency?	10:32:00
20	A. I have.	10:32:01
21	Q. What courses?	10:32:02
22	A. I've taught a cryptocurrency law	10:32:04
23	and policy course.	10:32:07
24	Q. When was that?	10:32:08
25	A. I last taught that course in the	10:32:11



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1	BY MR. SACHS:	10:45:36
2	Q. I believe my question was what did	10:45:36
3	your study as part of your master's of public	10:45:39
4	policy degree entail, Mr. Reiners?	10:45:41
5	A. Studied a variety of topics.	10:45:45
6	Economics, finance, regulation, policy issues.	10:45:50
7	Q. How many years was that course of	10:45:56
8	study?	10:45:58
9	A. Two years.	10:45:59
10	Q. Did you study law at all?	10:46:00
11	A. I don't believe I took a law	10:46:05
12	course, but of course law influences public	10:46:07
13	policy and vice versa, so legal issues did of	10:46:12
14	course come up in my course of study.	10:46:16
15	Q. Sure. And as far as you're aware,	10:46:18
16	were there law students in any of your courses?	10:46:20
17	A. I don't know.	10:46:24
18	Q. Sitting here today, do you	10:46:26
19	remember any law students being present in any	10:46:27
20	of your courses?	10:46:30
21	MR. ZACK: Asked and answered.	10:46:31
22	Object to form.	10:46:33
23	A. I don't know if there were law	10:46:36
24	students or not. I don't remember.	10:46:39
25	Q. Upon your graduation with your	10:46:41

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1	the law school?	10:55:46
2	MR. ZACK: Objection to form.	10:55:47
3	A. I don't know what Duke Law	10:55:50
4	considered.	10:55:52
5	Q. Are you a law professor at Duke?	10:55:55
6	A. No.	10:56:00
7	Q. Have you ever appeared on the Duke	10:56:04
8	Law website as a member of the faculty?	10:56:10
9	A. I believe I had a profile on the	10:56:16
10	Duke Law website, but whether or not that was	10:56:18
11	listed under a page of faculty members, I don't	10:56:24
12	know.	10:56:29
13	Q. Okay. What's the difference	10:56:32
14	between a lecturing fellow and a member of the	10:56:34
15	Duke Law faculty?	10:56:37
16	A. I don't know.	10:56:41
17	Q. Are you a member of the faculty of	10:56:50
18	the Duke Economics Department?	10:56:53
19	A. That -- I believe so, yes. That's	10:56:58
20	my full-time position in the Econ Department.	10:56:59
21	Q. Can you describe what you do in	10:57:03
22	the Econ Department in a little more detail.	10:57:05
23	A. I teach courses primarily.	10:57:08
24	Q. What courses do you teach?	10:57:10
25	A. I teach a course on financial	10:57:12

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1	regulation. I teach a course on climate change	10:57:14
2	and financial markets within the Econ	10:57:19
3	Department.	10:57:22
4	Q. And you said your role with the	10:57:24
5	Econ Department is full time. What does that	10:57:28
6	mean?	10:57:32
7	A. That means that most of my time is	10:57:33
8	spent working on Econ Department related classes	10:57:35
9	and other matters.	10:57:40
10	Q. Does the Econ Department expect	10:57:41
11	you to teach a certain number of courses or do a	10:57:44
12	certain number of things as part of this role?	10:57:48
13	A. There's certainly a teaching	10:57:50
14	expectation, yes.	10:57:52
15	Q. What is the teaching expectation?	10:57:54
16	A. I think it's expected that I teach	10:57:59
17	at least two courses every academic year.	10:58:02
18	Q. And do you believe that your	10:58:07
19	salary, which I'm not asking what it is, but do	10:58:08
20	you believe that your salary is contingent on	10:58:11
21	your teaching those two courses?	10:58:15
22	MR. ZACK: Object to form.	10:58:16
23	A. I mean, I don't -- if I didn't	10:58:20
24	teach those two courses, I can't say if they	10:58:22
25	would pay me or not. I don't know the answer to	10:58:26

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1	that, I guess.	10:58:29
2	Q. Okay. No need to find out, I'm	10:58:29
3	sure.	10:58:32
4	MR. ZACK: Is this a good time to	10:58:33
5	take a little break? We've been going about an	10:58:35
6	hour.	10:58:39
7	MR. SACHS: Almost. I'd like to	10:58:39
8	finish a couple of questions.	10:58:41
9	MR. ZACK: Go ahead. I just want	10:58:42
10	to know what's a good time.	10:58:44
11	MR. BEST: Let's get through this,	10:58:44
12	Dan, and let's take a break. I agree with	10:58:46
13	Steve.	10:58:47
14	MR. SACHS: Absolutely. Let's	10:58:47
15	just finish a little more of the resume and then	10:58:49
16	we'll take a break.	10:58:51
17	BY MR. SACHS:	10:58:53
18	Q. Does the law school -- do you get	10:58:54
19	paid for teaching courses at the law school?	10:58:57
20	A. Yeah, I did in the fall of 2022	10:59:05
21	when I last taught a stand-alone course at the	10:59:08
22	law school, yes.	10:59:12
23	Q. And is that payment, salary,	10:59:13
24	separate and apart from what you get from the	10:59:15
25	Economics Department?	10:59:18

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1	A.	At that time it was, yes.	10:59:19
2	Q.	Are you -- let's see. You're not	10:59:20
3		teaching a course at the law school for this	10:59:25
4		spring 2024 semester; is that right?	10:59:27
5	A.	No.	10:59:30
6	Q.	Are you teaching a course at the	10:59:30
7		law school next year, academic year?	10:59:32
8	A.	I don't know.	10:59:37
9	Q.	At the moment do you have plans to	10:59:37
10		do so?	10:59:39
11	A.	No.	10:59:40
12	Q.	Would you like to?	10:59:42
13		MR. ZACK: Objection.	10:59:44
14	A.	I'm indifferent.	10:59:48
15	Q.	Do you have an office at Duke?	10:59:50
16	A.	Yes.	10:59:54
17	Q.	Where is your office?	10:59:54
18	A.	In the Social Sciences Building.	10:59:57
19	Q.	Is that on the main quad, next to	11:00:00
20		the Allen building?	11:00:02
21	A.	Yes.	11:00:04
22	Q.	Do you have an office at the law	11:00:04
23		school?	11:00:07
24	A.	No.	11:00:07
25	Q.	Apart from the things on your	11:00:18

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1	order to purchase an EPA in this matter?	11:28:16
2	MR. ZACK: Object to form.	11:28:19
3	MR. BEST: Let me re-ask it.	11:28:22
4	Mr. Reiners, how do you purchase	11:28:25
5	an EPA on the Voyager platform?	11:28:28
6	THE WITNESS: My understanding on	11:28:33
7	this question is informed by the Second Amended	11:28:35
8	Complaint, as well as the New Jersey Bureau of	11:28:40
9	Securities' cease and desist order, which said	11:28:44
10	that all customers who open an account on	11:28:48
11	Voyager were automatically enrolled in EPAs	11:28:51
12	unless they chose to opt out.	11:28:56
13	BY MR. SACHS:	11:29:00
14	Q. And do you have an understanding	11:29:01
15	of what that means to enroll in an EPA?	11:29:02
16	A. So, as I understand the operations	11:29:11
17	of Voyager and the EPA program, again as	11:29:13
18	identified in the Second Amended Complaint, as	11:29:18
19	well as some of the other sources that I	11:29:23
20	mentioned previously, that customers who	11:29:25
21	purchased cryptocurrency through Voyager and	11:29:30
22	maintained that cryptocurrency with Voyager, had	11:29:37
23	that cryptocurrency automatically pooled into	11:29:42
24	the EPA program.	11:29:46
25	Q. Okay. So the two characteristics	11:29:49

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1	that I've heard you say are, one, opening an	11:29:53
2	account; and, two, purchasing cryptocurrency.	11:29:57
3	Are there other characteristics or steps that	11:30:00
4	you understand to be necessary in order to have	11:30:03
5	purchased an EPA?	11:30:06
6	MR. ZACK: Object to form.	11:30:12
7	A. There may be. I've never used the	11:30:17
8	Voyager platform, so I'm not familiar with the	11:30:19
9	user interface. So my understanding is that all	11:30:23
10	Voyager customers were automatically enrolled	11:30:30
11	upon opening an account and funding the account	11:30:34
12	into EPAs, unless they chose to opt out.	11:30:37
13	Now, the mechanism by which that	11:30:40
14	opt out was available to them, I cannot speak	11:30:43
15	to.	11:30:46
16	MR. BEST: Mr. Reiners, have you	11:30:46
17	ever been to the Voyager website?	11:30:48
18	THE WITNESS: I went to the	11:30:52
19	Voyager website after the bankruptcy. It may	11:30:54
20	have been through the Wayback Machine, though.	11:31:00
21	I'm not sure if the website is still operating	11:31:03
22	on its own.	11:31:07
23	MR. BEST: And when you went to	11:31:11
24	the website, did you look for any web pages on	11:31:13
25	the Voyager website -- strike that.	11:31:17

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1	specific tokens to determine whether or not the	11:56:45
2	Earn Program Account is a security?	11:56:50
3	MR. ZACK: I'm going to object and	11:56:52
4	instruct him not to answer that question because	11:56:55
5	it invades the attorney-client privilege here.	11:56:57
6	MR. BEST: Okay.	11:57:01
7	BY MR. BEST:	11:57:08
8	Q. Did you review anything on the	11:57:08
9	Voyager application or Voyager website regarding	11:57:09
10	how Voyager treats specific tokens?	11:57:13
11	MR. ZACK: Again, please do not	11:57:22
12	reveal any conversations you've had with your	11:57:24
13	counsel.	11:57:29
14	Q. What Steve just said is absolutely	11:57:33
15	correct. I just have asked you did you review	11:57:36
16	anything on the Voyager website or the Voyager	11:57:39
17	application regarding the treatment of the	11:57:41
18	tokens specifically?	11:57:47
19	A. Can you clarify what you mean by	11:57:49
20	treatment?	11:57:51
21	Q. Did you review any documentation	11:57:52
22	from the Voyager website or the Voyager	11:57:56
23	application in your determination as to whether	11:57:58
24	or not a specific token on the Earn Program	11:58:05
25	Account is a security?	11:58:11



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1	MR. KAYE: Form.	11:58:15
2	A. As I said earlier, I did not	11:58:18
3	download the app, so I have not reviewed	11:58:21
4	anything on the app.	11:58:24
5	In terms of the information I	11:58:29
6	reviewed on Voyager's website, I don't recall if	11:58:30
7	I saw anything that reflected Voyager's own	11:58:36
8	views as to the security status of tokens that	11:58:42
9	they made available for trading.	11:58:47
10	Q. I didn't ask for their views. I	11:58:49
11	asked as to how they treated the specific token	11:58:52
12	and whether they lent it out.	11:58:57
13	MR. ZACK: Object to form.	11:59:00
14	A. Again, I'm not --	11:59:05
15	Q. Did you see a notation about that	11:59:07
16	on the Voyager website?	11:59:07
17	A. Again, I'm not sure what you mean	11:59:11
18	by treated. But as to the second element of	11:59:13
19	your question, I do not recall reviewing	11:59:17
20	anything that Voyager produced that provided a	11:59:21
21	glimpse into their thought process around which	11:59:33
22	tokens would be lent out to third parties.	11:59:36
23	Q. Okay. Is that critical to your	11:59:41
24	analysis as to whether or not they're a	11:59:47
25	security?	11:59:51

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1	MR. SACHS: One more time, please,	12:12:31
2	Nancy.	12:12:51
3	(Last question read.)	12:12:51
4	MR. ZACK: Same objection.	12:12:55
5	A. My report does not specifically	12:12:57
6	state that.	12:13:00
7	Q. Do you believe that there is any	12:13:03
8	difference in any manner between an EPA that	12:13:05
9	included an investment in a cryptocurrency that	12:13:10
10	was interest-bearing and one that was not?	12:13:15
11	MR. ZACK: Objection to form;	12:13:17
12	asked and answered.	12:13:19
13	A. I believe all EPAs are investment	12:13:23
14	contracts.	12:13:25
15	Q. And why, in your view, is an EPA	12:13:27
16	that was invested in a noninterest-bearing	12:13:31
17	cryptocurrency is an investment contract?	12:13:36
18	A. Again, that's a hypothetical, but	12:13:47
19	Voyager was still pooling those assets and per	12:13:58
20	the terms of service, reserving the right to	12:14:04
21	hypothecate, re-hypothecate, lend or do whatever	12:14:08
22	else they wanted with customers' crypto assets,	12:14:13
23	while at the same time making representations	12:14:18
24	that Voyager customers could generate returns.	12:14:20
25	So I think given those	12:14:25

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1	A.	I don't know that.	12:19:10
2	Q.	Did you read from the Voyager	12:19:12
3		website Voyager's terms of service; yes or no?	12:19:14
4	A.	I don't recall.	12:19:19
5		MR. KAYE: Form.	12:19:20
6	Q.	You don't recall?	12:19:21
7	A.	(Witness shakes head.)	12:19:23
8	Q.	And you certainly didn't read it	12:19:25
9		off of Voyager's application, because you never	12:19:26
10		went there, correct?	12:19:29
11	A.	Correct.	12:19:30
12		MR. BEST: Okay.	12:19:31
13		MR. SACHS: Hearing nothing else,	12:19:34
14		I think now is a good time for lunch. Let's go	12:19:35
15		off the record at 12:19 p.m., please.	12:19:40
16		THE VIDEOGRAPHER: The time is	12:19:54
17		12:19 p.m.; we are going off the record.	12:19:56
18		(Luncheon recess.)	12:20:04
19		THE VIDEOGRAPHER: The time is	12:51:49
20		12:52 p.m.; we are going back on the record.	12:52:03
21		MR. SACHS: Thank you and hello	12:52:06
22		again, Mr. Reiners. We are back on the record	12:52:08
23		after lunch. You are still under oath and we	12:52:10
24		are now back to video recording.	12:52:15
25		While we were off the record your	12:52:16

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1	what is currently on the screen.	12:55:36
2	Sue, I'm pulling up Tab 16,	12:55:46
3	please.	12:55:50
4	THE TECHNICIAN: I just took it	12:55:51
5	off. I apologize.	12:55:53
6	MR. SACHS: That's okay.	12:55:53
7	THE TECHNICIAN: And you want me	12:55:56
8	to mark this Exhibit 3?	12:55:57
9	MR. SACHS: Yes, please.	12:55:58
10	(Exhibit Reiners 3 was marked and	12:56:02
11	introduced at this time.)	12:56:06
12	THE TECHNICIAN: You have control.	12:56:13
13	BY MR. SACHS:	12:56:14
14	Q. Mr. Reiners, this is a screenshot	12:56:14
15	from the Wayback Machine of the Voyager either	12:56:17
16	website or application. Have you seen this	12:56:23
17	before?	12:56:26
18	A. Not in this form. I think some of	12:56:33
19	this information was included in other Voyager	12:56:36
20	complaints.	12:56:41
21	Q. Okay. So you may have seen the	12:56:42
22	information in it, but the document itself is	12:56:44
23	not something you've looked at?	12:56:46
24	A. Not to my recollection.	12:56:49
25	Q. Okay. I'd like to ask you about	12:56:51

Transcript of Lee Reiners  
Conducted on March 28, 2024

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REPORTER'S CERTIFICATION.

I, NANCY C. BENDISH, Certified  
Court Reporter, N.J. License No. XI00836, and  
the officer before whom the foregoing remote  
deposition was taken, do hereby certify the  
foregoing transcript is a true and correct  
record of the testimony of LEE REINERS; that  
said testimony was taken by me stenographically  
and thereafter reduced to typewriting under my  
direction; that reading and signing was not  
requested; and that I am neither counsel for,  
related to, nor employed by any of the parties  
to this case and have no interest, financial or  
otherwise, in its outcome.

IN WITNESS WHEREOF, I have hereunto  
set my hand this 1st day of April 2024.



NANCY C. BENDISH, CCR, RMR, CRR

Notary Public of the State of New York

My commission expires March 15, 2026